A DISCOURSE

Concerning the

Nature, Power,

And Proper Effects

Of the Present

Conventions

IN BOTH

KINGDOMS

Called by the

Prince of Orange.

In a Letter to a Friend.

LONDON: Printed for *J. L.* and are to be Sold by *Richard Baldwin*, near the *Black Bull* in the *Old Bailey*. MDCLXXXIX.

And what a ſhame is it, that Clergy-Men from the Higheſt to the loweſt, ſhall be forc'd (as now) to ſtarve, or Subſcribe to an Untruth, or Iniquity, becauſe Eſtabliſhed by a Law, (the *Act of Uniformity?*) that conſidering how, and when it was made, 'tis a Miracle to me, that they had not got *Popery* as well Eſtabliſhed by a Law, but that the *Major Part* of that *Penſioners Parliament* were honeſt *Engliſh* Proteſtants.

But if after all this, ſome *Achitophel*, ſome *Machiavilian*, who has got more *Power* than *Grace*, will confute me only, (as the Council of *Conſtance* confuted thoſe two Excellent Proteſtants (as aforeſaid) only with a *Jayl*: He will in the end prove himſelf to be a true *Achitophel*, (as the Name ſignifies in the *Hebrew Tongue*) *Coſin-German to a Fool.*

And may glory a while (and but a while, I hope) as the *French* King does, that in making new Converts, and upholding his Religion; His *Dragoons* and his Jaylors are his *beſt Preachers.*

If ſo; then, *moſt Noble Healers of our Breaches!* Let not *Proteſtants* hereafter be permitted to *force* your Subjects (who have *entruſted* you with Power) to the ſad Choice (which *Papiſts* glory in) namely, To *Uſe* the Croſs, or *Bear* the Croſs; ſtretch your *Conſciences*, or ſtretch a *Halter*; *Bow* or we will *Break* your Necks, or *Starve you* in a Jayle

But I humbly ſay —— If *here* I have ſpoke Evil, *bear Witneſs* of the Evil; but, *if well*, why *ſmiteſt* thou me through Envy? Envy, that Rancour, Ruſt and Canker of Man's Soul (that like the Wood-Worm) Eats up and *Devours* its Parent that breeds it and feeds it.

Nay, for the *ſmarting work too*, I am very willing to *ſubmit* my Skull to *be ſtoned to Death* for any *the leaſt Errour* in this Treatiſe committed, upon condition, that *he* only *that is free from Error* caſt *the firſt Stone* at me.

I do not *much Tremble* at this *Frank and Free* Offer, though I be *Confronted* with (the Preſent Pope) *Old Innocent Himſelf*, or any *of his* Biſhops.

COLCHESTER,
January. 17. 168⅘.

FINIS.

Errata. In the Epiſtle, Page 3. Line 28. for *Males Adminiſtration*, read *Male-Adminiſtration*. Page 4. Line 28. for *ſube*, read *ſuch*.

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03,37

A Discourse concerning the Nature, Power, and proper Effects of the Present Conventions in both Kingdoms, called by the Prince *of* Orange.

SIR,

BY your last I perceive, that You and Others you have conversed with in the Country, are strangely amused with the Conventions called by the *Prince* of *Orange*, in both Kingdoms, not knowing by what Authority they are called, or what their Nature and Power can be, seeing they are alien from all the Courts and Judicatures of the Kingdoms, without any mention of them, or warrant for them in Law, and thereby they can be capable to do nothing Authoritatively, or warrantably: You do suppose that I being upon the place can be able to give you a better account of them then doth occur to your Apprehension: I am very willing to satisfie your desire in a matter of so great and common a Concern, as far as my Reach can go: For these Conventions can most properly explicate their own Power.

I shall endeavour to clear to you, what the Nature of these Conventions are, and what Power I conceive them to have, and by what Warrant they are called.

You must then consider, that in all Common-wealths constitute by Men, there must be two Contracts and

Agreements, *Expreſs*, or *Tacit*, by Word, or Deed; One amongſt theſe Families who unite themſelves into one Body Politick, whereby they are incorporate, and become one People, and for diſtinctions ſake this may be called the *Popular Contract*: The other is between the Soveraign Power and the Body Politick, which two makes up the Common wealth, and ſettle the Government of it in ſuch Perſon or Perſons, and with ſuch Powers as they agree; this may be called the *Reſtoral Contract*, by which the Soveraign Power is to govern and protect the People in all their Rights, and whereby they become Subjects obliged to Obey.

The Popular Contract muſt have been entered by the Fathers of the Families incorporated, for before the Erections of Common-wealths there was no other Government amongſt Men, but the Patriarchal Government of the Fathers of Families, over their Wives Offſpring and Servants, which was no leſs extenſive while the Fathers lived, during ſo many hundred of years, than many civil Societies that now be, and comprehended all Authority, Sacred, Civil, and Criminal, and contained not only Power over the Familes, but alſo an obligation impoſed of God to exerciſe theſe Powers, whereof their Fathers could not lawfully exoner themſelves, and lay that Burden or any part of it upon others, unleſs there had been a Divine Inſtitution allowing it, and though the preciſe time of that Inſtitution be not expreſſed in Scripture, as neither is the Inſtitution of Sacrifices, yet both of them are acknowledged in Scripture, and the Inſtitution of a Publick Judgment, and of Civil Powers, are clear from the 13th Chapter of the *Romans*, *The Powers that be are ordained of God, and he that reſiſteth the Power reſiſteth the Ordinance or Inſtitution of God.* The Jewes (who of all Nations had the cleareſt Records of time) did attribute the Inſtitution of a Publick Judgment to the Precepts or

Laws

Laws of God delivered to *Noah*, and by his Posterity propagated thorow the World; by which, they judged all in their Territories that were not *Israelites*; whereof you may have a full account by the learned Treatise of Mr. *Selden*.

The Divine Institution of a Publick Judgment which is the Original of both the forementioned Contracts, is in God's Wisdom and Goodness so sufficient and full, that thereby not only all things clear by the Law of God, or the consistent Laws of Men could be effectuated, but all doubtful things that could be controverted within the Common-wealth might be determined, without necessity of any Sedition, Tumult, or Intestine War, and consequently private Judgment behoved so far to cede to that Publick Judgment, as to submit to it, even when Erroneous, if the matter were dubious, seeing God did not appoint Infallible Judges which yet cannot be extended to things clearly contrary to the Agreement and Constitution of Common-wealths, otherwise all Contracts betwixt Soveraign and Subject, and all Constitutions and Governments thence arising were Elusory, making Soveraigns only punishable by God for the breach of them, but stating no Right of Exaction in the People insnared by them, instead of Subjects to become Slaves: Seeing Soveraigns might securely take their Lives, Liberties, and Goods at their Pleasure, which no considering unbyassed Person can imagine to have been the purpose of God in Instituting a Publick Judgment, God did Institute the Power of this Publick Judgment, but not the Persons that were to exercise it, or the manner how it was to be exercised, but left these free to be constituted by Men; and therefore St. *Peter* calls it a humane Constitution or Creation.

From

From this Divine Inſtitution aroſe Civil Societies in Common-wealths, the Powers and Duties of Soveraigns and Subjects, and the juſt meaſures of Soveraignty and Liberty, and the Conſtitution of Common-wealths, by the fore-named Contracts.

The Popular Contract is always in Nature, and ſometimes in Time, anterior to the Rectoral One: By it the Fathers of Families engaged each to others for themſelves, and their Families, to keep Commerce together, and to concur in Defence and Vindication of their Rights, by the direction of the Soveraign Power that ſhould be agreed to be ſet over them, by the Suffrage of the plurality of the Fathers of theſe Families, who before could not be obliged by a Plurality, but only by their own Conſent; ninety nine could not engage the hundredth perſon, thô all met and conferred together, till they agreed that the plurality ſhould be as effectual as the whole, whether it were one plurality, or ſeveral pluralities of ſeveral States; for it cannot be preſumed that theſe who were Noble and Rich, would agree to have no more than an equal Suffrage with meaner Citizens; unleſs ſome great neceſſity or advantage could induce them; nor that the Poor that could not bear Burden in the Common-wealth, ſhould be admitted as Citizens, nor Servants, nor even Sons in their Fathers Families, during their Lives, thô by him they did then enjoy Priviledges, and after all of them ſucceeded to him as Citizens; yet by making them equal in Power with himſelf, he ſhould have loſt his Paternal Power of Governing them: And there may be, and have been many other Reſtrictions and Qualifications of Citizens; all the reſt, thô Subjects, being but *Incolæ*, or Inhabitants: Citizens have always ſome ſhare in the Government, either by their proper Birth right, or by being repreſented by Election. All the Kingdoms of Chriſten-

Chriſtendom, after the Fewdal Right prevailed, gave none ſhare in the Government, but thoſe that had the Right of conſiderable Lands within the Limits of the Common-wealth, whether belonging to ſingle Perſons, or to Incorporations, except in *Denmark* or *Sweden*; and Laws were made, and Taxes impoſed by Emperours and Kings, with the Advice and Conſent of the Plurality of all theſe in one Aſſembly, or of diverſe States in ſeparate Aſſemblies; of the Prelates of the Church, for Church-Lands; and of the other Barons, for the Temporal Lands; and of Delegates, repreſenting Incorporations, for the Lands belonging to them in common; but afterwards the Barons being multiplied, the *minor* Barons were all allowed to be repreſented by Commiſſioners Elected by them.

The Soveraign Power was at firſt ſtated in Kings and Princes, who were very many, every conſiderable City making a ſeveral Common-wealth; whereof multitudes are mentioned in Scripture: Theſe Princes were Leaders of their Armies, and Judges of their Controverſies, in their own Perſons, without Deputation, till the Common-wealths ſwelled to that greatneſs. That as *Jethro* adviſed *Moſes*, they found it neceſſary to have ſubordinate Deputies for ſmaller Matters, and afterwards even for the greater, without appeal to themſelves, who otherwiſe would be overwhelmed with Affairs Civil and Military; yet ſo that the Malverſation of theſe ſubordinate, might be puniſhed by the Soveraign Power, or by ſuch as were delegated for that purpoſe.

In the diffuſive Kingdoms of the *Aſſyrians*, *Babylonians*, *Perſians*, and *Medes*, their Kings could hardly be reſtrained, becauſe their Subjects could not Convein as in the leſſer Common-wealths; and many of them were not united by Popular Contracts, and ſo were not one Body Politick.

The

The Exceſſes of Monarchs gave the riſe to Ariſtocracy, where the Soveraign Power was in the Plurality of more Perſons; and Democracy, where the Power was in ſo great a number, that they could not deliberate together; that what was ſaid ought to be heard by all: Yea, all theſe former came for the moſt part to be regulated by general Laws, to be made with the Advice and Conſent of others; then theſe that were in the Soveraign Power.

In the *Athenian* Democracy the People could not deliberate, but in thoſe things that were adviſed by their *Præconſultores*, whoſe Advice, but not their Conſent, was required.

The *Romans* in their Popular Eſtate, could make no Laws, unleſs they were conveined by a Senatorian Magiſtrate, or Tribune of the People, and in moſt things the Authority of the Senate behoved to proceed.

All the Kings in Chriſtendom by a long tract of time made no general Laws, but by conſent of their Eſtates, being conveined by themſelves, or their Deputies; tho' ſome have pretended that they were only called to give their Advice: But the conſtant ſtile of their Laws, and their frequent Declarations evince, that not only their Advice, but their Conſent was neceſſary.

I crave your Pardon that I have ſo long continued in Generals: But you will find it was neceſſary for reſolving your Doubts. Theſe Conventions then of the two Kingdoms, are Repreſentatives of the Body Politick of the reſpective Kingdoms, ſuch as might have been before their Bodies Politick, entered in a Rectoral Contract with the firſt of the Kings of the Race that now Reigneth, and they are no Judicial or Authoritive Judicatures; and I ſuppoſe, will claim no Power to make Laws, to judge Perſons, or to impoſe Taxes: Neither are they any of

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the Judicatures of the Common-wealth, deriving Authority from a Soveraign Power; but do proceed by the Judgment of Diſcretion, not as they are Subjects or Parts of the Common-wealth; but as they are the Parties Contracters with their Kings, and their Race; as to which Contract they were, and muſt be conſidered as unſubordinate; for they were not Subjects in that Contract, nor their Kings Soverains, but by and after that Contract; and therefore they have the ſame native and inherent Right to deliberate, and reſolve how far they were obliged by that Contract, and how far the preſent King hath obſerved or violated the ſame: and therewith, the Conſtitution of the Kingdoms, and the Laws and Liberties of the Subject, and what they may juſtly and warrantably declare thereupon, in this extraordinary Conjuncture; wherein the Body of the Nation hath riſen againſt the Actings of the King, having voluntarily concurred with the Prince of *Orange*, who upon the Invitation of many, as the ſence of the moſt, came with an Army to encourage them to appear for themſelves; which they did, before any Act of Hoſtility by him, or his coming near to the Places where they roſe in Arms, and declared for him, upon the Grounds of his Declaration: So that even his Army, tho' far the ſtronger, would not aſſiſt the King in that Cauſe, but the moſt of them joyned with the Prince. So that the King being left to his liberty, removed beyond Sea, ſheltering himſelf under the Wings of the moſt eminent Oppreſſor of Proteſtants. I hope this will give you light to conſider what is the nature of theſe Conventions.

The next Point is, What Power theſe Conventions have, and what they can warrantably do. I have ſhewn you what I think they ſhould not do; now I ſhall tell

you what I think they may do. 1. They are the Repreſentatives of a Body Politick, which by the Popular Contract uniting therein, may judge who are Members of the Meeting, and by the Plurality of the Lords, and of the Commons of *England*, in their diſtinct Aſſemblies, may over-rule the *minor* part of thoſe who meet, ſufficient intimation being made to all, or of the Eſtates of *Scotland*, in their meeting joyntly.

Secondly, They may reſolve whether the Conſtitution of the Kingdom, and the Rectoral Contract, whence it aroſe, be violated on the King's part, and may agree upon the ſeveral violations. I ſhall not inſiſt on all, but ſhall give ſome eminent examples; as firſt, They may declare, whether the King hath violated the Conſtitution, by aſſuming a **Diſpenſing Power** over the Laws of the Nation, and that his Judges in his view, if not by his inſtigation, have by a ſolemn Sentence declared, That he may diſpenſe with Law, even in the Caſe of Propriety, accruing to a private Perſon, from a Statute of Parliament: And that thoſe Judges who diſ-aſſented, were thereupon immediately removed; yea, the ſame hath been fully and publickly declared, by his Publick Declaration in *Scotland*, That *He is an Abſolute Monarch, to whom Obedience is due in all things, without reſerve.* By theſe the Conſtitution of both Kingdoms is totally overturned, for they are beyond queſtion Legal Monarchies, Regulated by Laws made by the Conſent of the Repreſentatives of the Kingdoms aſſembled in Parliament. And if theſe Sentences and Declarations were effectual, they would be Arbitrary Monarchies, governable without the neceſſity of any general Law, with, or without the Conſent of the Houſes, or States of Parliament; which is a greater violation of the Conſtitution, then if the Monarchy had been turned into an Ariſtocracy

cracy or Democracy, for there is far leſs importance in the Perſons that Govern, than in the Power of Governing.

Thirdly, There is nothing more contrary to the Government of *England*, than to overturn the Conſtitution of the Parliament, by manifeſt corruption of the Election of Members to ſerve therein, in overturning the Conſtitution of the Cities and Burroughs, in annulling the Charters of ſome upon pretended Malverſation of theſe in the Magiſtracy, tho' it was not in the Power of the Incorporation to reſtrain them; ſo that the Magiſtrates themſelves were only puniſhable; that if they were removed, the Incorporation might name others. And by ſeducing and threatning thoſe who had Power to Elect in the Counties, Cities, and Burroughs, if they did not firſt give aſſurance to Elect ſuch Deputies, as would conſent to take away the Teſt and Penal Laws againſt Papiſts. Hence many of the Cities, and Burroughs, ſeeing what became of their Neighbours, did thorough fear deliver up their Charters without Sentences; and ſuch whoſe Charters were taken away, had new ones, of Perſons to be in their Magiſtracy and Council, wholly depending on the King; that the Houſe of Commons, whereof the far greateſt part conſiſts of the Deputies of Cities and Burroughs, might be packed at the King's pleaſure, and the whole Houſe in danger to be corrupted by theſe prepoſſeſſions; never attempted by any King of *England*, and deſtructive of the Conſtitution of Parliament, and to the Security of the Subjects.

Fourthly, There is nothing more contrary to the Conſtitution of *England*, than to be governed by the Sword, and Martial Law; yet the King raiſed and kept a ſtanding Army of a great ſtrength, which did bear down the

dom, until the Prince of *Orange* put them in capacity to Riſe for their Vindication, and many Perſons were Executed by Martial Law.

Fifthly, As the former Violations were of the very Conſtitution, ſo the moſt important Law of the Kingdoms, for ſecuring the Religion therein Eſtabliſhed by Law, was openly and atrociouſly violated; by which Law Papiſts were made incapable of all Publick Truſt, Eccleſiaſtick, Civil, or Military; and yet not only they were put in Vacancies, but Proteſtants frequently put out, that they might be put in, and none left in Publick Truſt, who being required, would not give aſſurance to concur in aboliſhing the Penal Laws againſt Papiſts; whereby at once the Law excluding Papiſts was acknowledged as needing a Repeal, and yet was commonly and knowingly broken without the ſame.

Sixthly, The Violations of the Conſtitution of the Kingdom of *Scotland* (deſigned as a leading Preparative to *England*) were yet more groſs and palpable: Firſt, by an Act of the Parliament holden in the Year 1685, the *King was declared an abſolute* Monarch, to whom Obedience is due *without reſerve*; which could not fail if it were effectual to overturn the Conſtitution and Government of that Kingdom, from being a legal Monarchy, regulated by Laws, made by the Conſent of the Eſtates in Parliament, into a Deſpotick or Arbitrary Monarchy, wherein the King might command all things to be done at pleaſure, even though they were in themſelves unlawful, there being nothing reſerved. But the moſt benign Conſtruction could not bring it lower, then to import Active Obedience in all things that were not in themſelves unlawful; ſo that if the whole Parliament were commanded to reſign the Parliamentary power in the Kings hands, that there ſhould never be another, it were

were no leſs lawful to them to do ſo, then to conſent to that Act, which was obtained of them, which no man can think could proceed upon any other Ground, then that they were all in Terrour to be reached for their Lives and Fortunes by Converſe with theſe who had been in Rebellions, whereof there were known and dreadful Examples. Or if a Corporation or City ſhould be commanded to reſign their Charters, or Priviledges; or if all, or any of the Subjects ſhould be commanded to reſign their Eſtates or Dignities in the King's Hand, and become Tenants at Will: They might lawfully do theſe things, though they were very Inconvenient, and therefore by that Act they were bound to Obey.

May not then a Convention of the Eſtates of that Kingdom conſider and reſolve, whether ſuch an Act were in the Power of a Parliament, or if it were in itſelf ſimply null, without the neceſſity of a Repeal upon this Conſideration, that the Parliamentary Power is founded upon the Conſtitution of the Kingdom, and therefore every part of it is a Fundamental Law, and a part of the *Reſoral Contract* betwixt the King and the body Politick of the Kingdom, which contract was not with the Parliament, and therefore could not be changed without the conſent of the parties who entered in it by a more ſpecial Warrant, then that general one of the Deputies for Shires or Burroughs. Is there any ſo impudent as to pretend that the States could effectually reſign in the King's hands all the Lands of the Kingdom? Or that he with their Concurrence could alienate the Kingdom, or ſubjugate it to become a Province ſubordinate to another Kingdom; or could they turn it to a Democracie? In a legal regulated Monarchy no general Command can be given, but what is warranted by a general Law, though Commands may be given ſeverally in every Controverſie; for though

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it be ſaid that Subjects ought to obey their Soveraigns in all things lawful; it is only to be underſtood of what is lawful by the Conſtitution, and Laws made thereupon, and not that which is *licit*, not being prohibited by God, otherwiſe it were applicable to no Government, but that which is Deſpotick, and could command all the Services the Subjects were capable to do, and all their Goods and Eſtates. It is a Childiſh pretence from the command in the Goſpel, to Wives to obey their Husbands, Children their Parents, in all things, to extend it to all Monarchs, unleſs Natural Affections betwixt Parents and Children, and the Incommunicable Affection betwixt Husband and Wife were infuſed in Soveraigns and Subjects, and though they could, theſe general Commands are only in relation to the Domeſtick Society, and the Government thereof, and not to the property of the Wife and Children, nor could the Husband thereby command the Wife to become a Slave, he remaining free, or to renounce her Joynture.

There is another Act procured by the King when Duke, for taking a *Teſt*, which is very good as to the Religion, and for excluding Papiſts; but there is thereto adjected an Oath, Declaring *it unlawful for Subjects upon any Pretence whatſever to Convocate, Convene, or Aſſemble in any Councils, Conventions, or Aſſemblies, to Treat, Conſult, or Determine in any Matter of State, Civil, or Eccleſiaſtick, without His Majeſties Command, or Expreſs Licence had thereto.* This overthrows all the Ordinary Judicatures, Civil, or Eccleſiaſtick in the Kingdom, which meet by a Warrant of Law, without neceſſity of a ſpecial Command or Licence; and thereby doth evidently and heavily encroach upon the Conſtitution of the Kingdom. There follows another Clauſe in the ſaid Act, declaring, That there is no Obligation to endeavour to alter the Government as it is now Eſtabliſhed in Church and

and State, which was not only impoſed on theſe in Publick Offices, and upon Members of Parliament, but upon all thoſe who had Vote in Elections of Members to Parliament, whereby many were excluded, conceiving themſelves obliged to endeavour ſome alterations in the Government, either by Divine Right, or by Oaths, they were commanded to take, both by King *Charles* the firſt, and ſecond, being perſonally preſent in Parliament, and with the conſent of the Eſtates, and though there had been no ſuch hindrance, it was an alteration of the Conſtitution, whereby all Freeholders of the King of any conſiderable Land, Eſtate, had a Share in the Government, by their Birth right, in being capable to Eleect, and to be Elected Members of Parliament. And when this King came to the *Crown*, he did extend this Oath by an Act of his firſt Parliament *to all Landed-men, whatever the Tenor or Extent of their Lands were, they being Proteſtants*, whereby Papiſts were excepted. Might not this Meeting of the Eſtates conſider and reſolve whether theſe parts of that Act were beyond the ordinary Parliamentary Power, and a Violation of the Conſtitution, and ſo null without Repeal: In all the Zeal againſt Popery, no King or Parliament did by any Act exclude the Electors in Shires or Burroughs, nor was there any ſuch thing in *England*, though their *Teſt* was only made for preſervation of the Proteſtant Religion, and excluding Papiſts from Publick Truſt; albeit in both Kingdoms Papiſts are excluded by Deſuetude.

Seventhly, In both Kingdoms Juſtice runs in the Channel of the Ordinary Judicatures Eſtabliſhed by Law, that nothing can be done amiſs, for which there are not ſome perſons accountable; yet by an Act of the Parliament of *Scotland*, held by this King when Commiſſioner for his Brother, it is declared, *That all Government and Juriſdiction*

diction doth Originally reſide in the King, and that the Offices and Juriſdiction beſtowed by him are not privative of his Juriſdiction; and therefore in a dutiful and humble Recognizance of His Majeſties Royal Right and Prerogative as to this Point, it is declared, That notwithſtanding theſe Juriſdictions and Offices, His Majeſty may by himſelf, or any Commiſſioned by him, take Cognizance and Deciſion of any Caſes or Cauſes he pleaſes. Enervating the Power of the Ordinary Judicatures, and giving ground to pick out Commiſſioners for every Cauſe, as the Parties are favoured, which breeds a general diſtruſt in the Nation, and was the ground of making the Officers of the Army, Sheriffs, and Juſtices, who acted not only with, but without, and contrary to the Ordinary Judges, and Juſtices, though they had neither Skill nor Will to do Juſtice, but did commit theſe Inſolencies under that pretence, which are mentioned in the Prince's Declaration for *Scotland*: May not then the Meeting of the Eſtates in *Scotland* reſolve whether this Act be a Violation of the Conſtitution? and if ſo, whether it be void in itſelf without a Repeal? Theſe of that Nation who are acquainted with the matter of Fact, might ſhew many more Encroachments upon the Conſtitution and Laws of that Kingdom; but I only mention ſome of theſe I read in publick printed Records.

If theſe and ſuch Violations be found, the next point is, what that Meeting may do thereupon, whether they may not declare themſelves free of Subjection to the Violator, or any of his Race begotten ſince theſe Violations: Upon this Conſideration, that the *Reciprocal Contract* betwixt him and the Body Politick of theſe Kingdoms repreſented in theſe Conventions, doth by the Nature of a Mutual Contract neceſſarily imply, that if the one Party violate his part of the Mutual Engagements, the other Party hath two Remedies, he may at his Option either force the Failer

Failer to perform, or declare himſelf for ever free of that Contract; as to the Failer, it is true, that by the Law or Cuſtom of ſome Common-wealths, if the Failer purge the Failure while his Party is in Suit, he may be reinſtated, which is not by the Nature of a Mutual Contract, and therefore 'tis never pretended in the Mutual Contracts of Kings and States; and though ſometimes Subjects after ſuch Violations have declared themſelves willing to continue in ſubjection, that was an Act of Favour, not of Juſtice or Debt: But after a Diſpenſing Power above Law is aſſumed and aſſerted, nothing can be ſaid or done which it cannot as eaſily ſurmount, as it hath the Laws made, and Oaths already taken, even though the Diſpenſing Power itſelf ſhould be diſclaimed; it can as eaſily diſpence with that Diſclamation, as what was either Law, or promiſed before: If then theſe Meetings ſhall declare themſelves, and the Body Politick free, Can they in Juſtice but declare, the Crown to be devolved upon the Princeſs of *Orange*, and in Juſtice, Gratitude, and Remuneration, they cannot but declare, that the Matrimonial Crown belongs to the Prince of *Orange*, during all the days of his Life, for it is inconſiſtent with Royalty to be for leſs time then Life, and ſo to ſee a King of *Britain* relapſe into a Prince of *Orange* again, and how Incongruous and Ungrateful were it to force him, who hath delivered *Britain* to leave it, or ſtaying there to become a Subject to his Wife; for though a Queen in poſſeſſion ſuperinducing a Husband may juſtly be ſtrictly dealt with, as *Philip* of *Spain* by Treaty, was excluded from any Act of the Government, with Queen *Mary*, tho' he had the Title of King, which he was to leave after her Death, even tho' his Child by her ſhould ſucceed: It imports nothing to this Caſe, where the Princeſs was firſt a Wife, and then a Queen, Married to the neareſt Male to the Crown, and

the Caſe being ſo contingent and unlikely, 'tis not to be thought the Princeſs of *Denmark* will grudge at it, for if he had not come, neither of the three were like to have enjoyed the Crown. When *Ferdinand* of *Arragon* married the Queen of *Caſtile*, he aſſum'd the Matrimonial Crown of *Caſtile*, both in her Life, and after her Death, tho' he had Children by her. The Courteſie both of *Scotland* and *England*, gives the ſurvivancy of the Eſtate of Wives Inheritance to their Husbands, during their Life; and tho' Cuſtom hath reſtricted it to the Caſe of a Child born in the Marriage, without requiring that Child to ſurvive the Marriage; which might have imported a rational Conſideration, to prefer the ſurviving Child in the Mother's Inheritance to her Husband; yet that not being required, there is no ground to extend it to Soveraigns.

Theſe Conventions have yet a further Power and Uſe: That ſeeing the ordinary Parliamentary Power can alter nothing in the Conſtitution, without a further Warrant from the Body Politick; theſe Meetings may give Warrant to eſtabliſh a Liberty of Conſcience in a juſt latitude, as the Parliament ſhall judge reaſonable; and may alſo give Warrant for an Act to exclude a Popiſh Succeſſor, wherein the Soveraign Power ſhall alſo concur. Theſe Acts will be Irrepealable, and Unalterable, without the like Warrant of the Body Politick, being convened with the conſent of the King, for the time; which will give very much eaſe to the minds of good People, and alſo give much ſecurity againſt Popery. The Houſe of Commons paſt ſeveral Votes to exclude a Popiſh Succeſſor, which came not to perfection, and was not deſigned to exclude the apparent Heir of the Crown, being Popiſh, and born; in which caſe it is dublious whether it could be done without conſent of that apparent Heir. But there can be no queſtion

ſtion that it may be done by the King and Parliament, warranted by theſe Conventions, tho' it exclude Collaterals, & Heirs not yet exiſtent. Albeit Queen *Mary* and *Elizabeth* were excluded to ſucceed to the Crown by their Father, and a Parliament, yet they both ſucceeded, and neither they nor the Parliament, found the neceſſity of a Repeal, in reſpect theſe Acts were in themſelves void, as changing the courſe of Succeſſion, by an ordinary Parliamentary Power. Likewiſe, theſe Meetings may give Warrant to Unite the two Kingdoms, which the ordinary Parliamentary Power could not reach to, unleſs it were confirmed or conſented to after the Act made, by the Body Politick, for the Uniting of the Kingdoms is certainly an alteration of both, making two Politick Bodys one, and making one Crown for two; but can well be done, if theſe Two Conventions give Warrant for it. And there appears a general inclination, as well as conveniency in both Nations, more than ever before.

I ſhall not be much difficulted now to ſhew, by what Authority theſe Conventions are called: The Meetings of the ordinary Judicatures are determined by Law and Cuſtom, and any other way of Meeting is declared Illegal. But there is no determination of the Calling or Meeting of theſe extraordinary Conventions; and therefore whatever way they meet, they are valid, otherwiſe they are not poſſible; and yet they are in many Caſes undeniably neceſſary; as if the Race of the Kings ſhould fail, or that a King ſhould be a Child, or become fatuous, or furious, or ſhould abſolutely deſert, or renounce the Kingdom. In none of theſe Caſes could there be a Parliament called, till firſt there were a Protector or Regent named, which only could be made by ſuch Conventions; but a Protector where there is a King of Age and Diſcretion, is without Rule or Example;

and therefore these Conventions must either declared themselves Free, or they must remain the King's Subjects, and be obedient to all his Commands, according to Law; they cannot mids the matter. Can any have so good an Interest to call these Conventions, as the Prince of *Orange* who is the neareſt Male, and the Husband of the neareſt Female to the Crown, who hath put the Kingdoms in Capacity to hold such Meetings, and declare their just Rights?

It is like some upon real Affection to the Prince, and others upon that Pretence, but upon intention to shake the Monarchy, and to make way for a Common-wealth, may make use of some Matters of Fact that have hapned in either Kingdom prejudicial to the Lineal Succession, which cannot infer a Right against the frequent Declarations of Kings and Parliaments, nor is like to be acceptable to the Prince, not only from his Affection to so Excellent a Princess, but from his Declaration in which he has set her Interest before his own.

I hope I shall not need to give you further trouble, seeing the Event by the *Conventions* Resolutions will quickly appear, and cannot admit of delay; and therefore shall only add, that I am

Yours

FINIS.